

# ANSWER OF FORTIS BENEFITS INSURANCE COMPANY, FORTIS INSURANCE COMPANY AND JOHN ALDEN LIFE INSURANCE COMPANY

Fortis Benefits Insurance Company, Fortis Insurance Company and John Alden Life Insurance Company (collectively, "Fortis"), three of the third-party defendants herein, file their answer to Defendants' Original Third-Party Petition, and state:



1. With respect to the allegations contained in Paragraph I, admits the allegations pertaining to Fortis; and states it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained therein.

2. With respect to the allegations contained in Paragraph II, states that Plaintiff's Original Petition speaks for itself, although admits the allegations contained therein are broad and vague; states it is without knowledge or information sufficient to form a belief as to whether any of Plaintiff's allegations against Third-Party Plaintiffs are true; and denies the allegations therein against Fortis.

3. With respect to the allegations contained in Paragraph III, admits, based on information and belief, the allegations pertaining to ERISA; and states it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained therein.

4. With respect to the allegations contained in Paragraph IV, denies Third-Party Plaintiffs are entitled to contribution and/or indemnity; denies Fortis is liable to Third-Party Plaintiffs for any alleged overpayments; denies Third-Party Plaintiffs are entitled to any recovery from Fortis; and states it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained therein.

5. With respect to the allegations contained in Paragraph V, denies Third-Party Plaintiffs are entitled to declaratory judgment relief; and states it is without knowledge or

information sufficient to form a belief as to the truth of the remaining allegations contained therein.

- 6. With respect to the allegations contained in Paragraph VI, denies the allegations against Fortis; and states it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained therein.
  - 7. Denies all allegations not specifically admitted.

### **AFFIRMATIVE DEFENSES**

8. Third-Party Plaintiffs' state law claims are preempted by ERISA.

#### RELIEF REQUESTED

- 9. Fortis requests the following relief:
  - (a) That Third-Party Plaintiffs take nothing by reason of their suit;
  - (b) That Fortis be dismissed with its costs and attorneys' fees under 29 U.S.C. §1132(g); and
  - (c) That Fortis have such other and further relief, both general and special, at law and in equity, to which it may show itself justly entitled.

Respectfully submitted,

By:

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OF COUNSEL: Timothy A. Daniels State Bar No. 05375190 Bill E. Davidoff State Bar No. 00790565

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ATTORNEYS FOR THIRD-PARTY DEFENDANTS FORTIS BENEFITS INSURANCE COMPANY, FORTIS INSURANCE COMPANY AND JOHN ALDEN LIFE INSURANCE COMPANY

## **CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing document has been forwarded via certified mail, return receipt requested, to the parties on the attached Service List on the 10th day of August, 2000.

Andrew G. Jubiasky

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